

NO. 49282-2-II

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON  
DIVISION TWO

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STATE OF WASHINGTON,

Respondent,

v.

J.Y.-H.,

Appellant.

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ON APPEAL FROM THE SUPERIOR COURT OF THE  
STATE OF WASHINGTON FOR THRUSTON COUNTY,  
JUVENILE DIVISION

The Honorable Christopher Wickham, Judge

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REPLY BRIEF OF APPELLANT

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A. SUPPLEMENTAL ASSIGNMENTS OF ERROR

The trial court erred in entering the following written findings:

1. The trial court erred in finding Ahmed's actions did not establish a basis for J.Y.-H.'s reasonable fear of harm or injury. CP 33 (Finding of Fact 1.13); see also RP 106-07; Br. App. 2 (Assignments of Error 4.a.-c.).

2. The trial court erred in finding Ahmed's use of force was "fairly minimal." CP 33 (Finding of Fact 1.12); see also RP 105; Br. App. 2 (Assignment of Error 3).

The trial court erred in entering the following written conclusions:<sup>1</sup>

3. The trial court erred in concluding courts are to review juvenile self-defense claims in light of the parental discipline statute. CP 33 (Finding of Fact 1.14 (citing RCW 9A.16.100)); see also RP 103-04 (citing RCW 9A.16.100); Br. App. 2 (Assignments of Error 1-2), 12-22 (arguing parental discipline statute does not apply).

4. The trial court erred in concluding the facts of J.Y.-H.'s case are "very different" from the facts of State v. Graves, 97 Wn. App. 55, 62-63, 982 P.2d 627 (1999). CP 33 (Finding of Fact 1.16); see also RP 104-05

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<sup>1</sup> Conclusions of law that are labeled as findings of fact by the trial court are so noted. Regardless of their labelling by the trial court, a determination that "carried legal implications" is a conclusion of law and should be treated as such by this Court on appeal. E.g. Para-Medical Leasing, Inc. v. Hangen, 48 Wn. App. 389, 397, 739 P.2d 717 (1987), review denied, 109 Wn.2d 1003 (1987).

(citing RCW 9A.16.100; Graves, 97 Wn. App. 55); Br. App. 2 (Assignments of Error 1-2), 18-22 (arguing Graves, 97 Wn. App. 55, is similar and controlling).

5. The trial court erred in concluding “[t]he State proved the absence of self-defense.” CP 34 (Conclusion of Law 2.7); see also RP 106; Br. App. 2 (Assignments of Error 1-4), 26-34 (arguing State failed to disprove self-defense).

6. The trial court erred in concluding J.Y.-H. was guilty of assault in the fourth degree. CP 34 (Conclusion of Law 2.8); see also RP 107; Br. App. 2 (Assignments of Error 1-4 (arguing trial court’s reasoning supporting conviction was in error)), 1, 10, 34 (appealing conviction and requesting reversal of conviction as remedy).

Issues pertaining to assignments of error.

The issues as stated in the opening brief are incorporated here. Br. App. 3.

B. SUPPLEMENTAL STATEMENT OF THE CASE

The trial court found J.Y.-H. guilty of fourth degree assault on July 7, 2016. CP 24-25. No written findings were entered at that time. The court based its decision on a detailed oral ruling, which later formed the basis for J.Y.-H.’s assignments of error in her opening brief on appeal. Br. App. 2-3 (citing e.g. RP 104-07). On June 19, 2017, almost a year later and

months after she had initiated an appeal of the decision, the trial court entered written findings of fact and conclusions of law to support its verdict. CP 32-34.

C. ARGUMENT

LATE ENTRY OF THE WRITTEN FINDINGS WILL NOT CAUSE PREJUDICE TO J.Y.-H. SO LONG AS SHE IS PERMITTED TO PRESERVE ARGUMENTS RAISED IN HER OPENING BRIEF BY MEANS OF SUPPLEMENTAL ASSIGNMENTS OF ERROR.

Juvenile court rules require the trial court to enter written findings and conclusions within 21 days. JuCr 7.11(d).

The State argues J.Y.-H. has not been prejudiced by the late filing of written findings of fact in this case because the written findings are “based on the trial court’s detailed oral ruling and are consistent with the verbal findings which J.Y[.]H. assigns error to.” Br. Resp. 18.

In order to preserve the arguments set forth in the opening brief and to avoid substantial prejudice to J.Y.-H., the appellant here incorporates the arguments made in her opening brief, and makes the additional assignment of error above, consistent with those arguments. See Br. App. 1-3 (arguing for reversal of assault 4 conviction on basis of assignments of error).

J.Y.-H. agrees that the written findings are substantially in line with the oral findings of the court. To the extent such findings are the same, and presuming J.Y.-H. will be permitted to make the additional assignments of error above, J.Y.-H. has not suffered prejudice as a result of the late filing.

In the alternative, should the State contest or this Court disallow J.Y.-H. to make the additional assignments of error necessary to preserve arguments made in her opening brief, J.Y.-H. would then suffer considerable prejudice and move to exclude the written findings entered beyond the allowable deadline. CP 32-34.

D. CONCLUSION

For the reasons set forth in the opening brief, the trial court's reasoning, including related findings of fact and conclusions of law, was in error. This is primarily because of the court's improper entanglement of J.Y.-H.'s self-defense claim with the parental discipline statute, despite the holding of Graves, 97 Wn. App. at 62-63 (citing RCW 9A.16.100).

J.Y.-H. respectfully requests this Court to reverse her conviction for assault in the fourth degree.

DATED this 19<sup>th</sup> day of July, 2017.

Respectfully submitted,

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